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BOUNDARY LINE

BETWEEN THE

BRITISH PROVINCES AND THE UNITED STATES.

A PAPER READ BEFORE

THE BUFFALO HISTORICAL SOCIETY

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BY WILLIAM A. BIRD, Esq.

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THE BOUNDARY LINE

BETWEEN THE

BRITISH PROVINCES AND THE UNITED STATES.

The line which is now the boundary between the United States and the British Provinces was first established by Royal Proclamation, Oct. 7, 1763, and confirmed by an act of Parliament in 1774, fixing the limits of "the Province of Quebec."

The 45th parallel of latitude was ascertained, and monuments placed on Lake Champlain "about two and one-half miles north of Windmill point," by Sir Henry Moore, Governor of New York, and by the Commander-in-chief of the Province of Quebec, in the year 1766, and confirmed by an order in Council in August, 1768, and the line was ordered to be run between the Provinces.

By the Treaty of Peace in 1783, this was the line intended to be described as the boundary, and by that Treaty the boundary was extended westward and northward to the Lake of the Woods.

The Treaty of Peace in December, 1814, at Ghent, followed the same line of boundary intended by the Treaty of 1783, referring throughout to that Treaty.

The Treaty at Ghent provided for the survey and determining of the line as follows:

By the 4th article, a Board of Commissioners was created of one Commissioner to be appointed by each Government to decide on, and establish the line in the Bay of Fundy and Passamaquoddy Bay. Thomas Barclay was appointed on the part of Great Britain, and John Holmes, of Maine, by the United States.

By the 5th article another Commission was empowered to establish the boundary "From the source of the river St. Croix, north to the northwest angle of Nova Scotia; thence along the Highlands which divide the waters that empty themselves into the river St. Lawrence, from those which fall into the Atlantic ocean, and to the northwestern head of Connecticut River, thence down that stream to the

45th degree of latitude, and on that west to the river Iroquois or St. Lawrence."

Cornelius P. Vanness, of Vermont was the Commissioner on the part of the United States, and Thomas Barclay on the part of Great Britain. These two Commissions met first at St. Andrews in November, 1816.

The 6th article provided for a third board of Commissioners to ascertain and decide upon the line from the point where the 45th parallel strikes the St. Lawrence, up through the middle of that river, Lake Ontario, the Niagara river, Lake Erie, Detroit river, Lake and river St. Clair and through Lake Huron to the St. Mary's river.

Gen. Peter B. Porter was the Commissioner on the part of the United States, and Colonel John Oglevie, of Montreal, on the part of Great Britain. Col. Oglevie died in Amherstburgh in October, 1819, and was succeeded by Anthony Barclay of New York, since Consul General of the British Government to the United States.

The 7th article provided that the same Board of Commissioners, after having settled and agreed on the line under the 6th article, should "proceed to fix and determine the line according to the true intent and meaning of the Treaty of 1783, from Lake Huron to the northwest angle of the Lake of the Woods, and to cause such parts to be surveyed as shall be required."

The 8th article empowered the several Boards of Commissioners, to appoint Secretaries and such Surveyors and other persons as they should judge necessary to make duplicates of their maps, reports, statements and amounts and deliver them to the agents of the two Governments who should be appointed to manage the business on behalf of their respective Governments.

The Commissioners, Secretaries, and Surveyors were all sworn to perform their several

duties impartially without regard to their Nationality.

The agents were considered the advocates or Attorneys for the Government by which they were appointed.

The Commissioners under the 4th and 5th articles, although they agreed to certain portions of the line on the bay of Fundy and river St Croix, could not agree upon that part from the river St. Croix to its intersection with the 45th parallel, nor upon that parallel which proved to be considerably south of the line as before run and marked. They therefore "agreed to disagree" upon the whole line.

By the terms of the treaty "the agreement and decision of the Commissioners was final and conclusive, but in case of disagreement the questions were to be submitted to some friendly power as arbiter. This portion of the boundary was therefore submitted to the King of the Netherlands, as arbiter, who made an elaborate report and decision in January, 1831, which, however, was not satisfactory to either party, and was protested against by the American Minister at the Hague on the ground principally that the arbiter had described a line not in the Treaty, and therefore not delegated to him by the high contracting parties. The award therefore became of no account.

That boundary remained unsettled, and a source of contention and illfeeling, which came near involving the two Governments in serious collisions, until 1842, when it was finally settled by "the Webster-Ashburton Treaty."

In May, 1817, the persons who were to compose the parties under the 6th and 7th articles, assembled at St. Regis, near where the 45th parallel of latitude meets the River St. Lawrence, and soon encamped on an island opposite that village. The two camps, the British and American, were separate, and the persons in each were, the Commissioner, Secretary, Surveyors, Steward, Cook, Waiter, Boatmen and Axemen, numbering about twenty. It was agreed that each party should survey separate sections of the rivers and lakes joining their work on a common base, to be agreed on and measured by the surveyors of both parties together. Thus after measuring a base, one party surveyed ten or fifteen miles to a convenient place to measure another base, from which the other party would commence, and in like manner the whole line was surveyed. Four maps were made of each section, one for each government and one for each Commissioner.

The starting point was first to be ascertained, and in addition to the means we had for fixing this point, the Commission was much indebted to Andrew Ellicott, then a Professor at West Point, who came out at the request of the Government, with his rude but remarkably accurate "Zenith Sector" of seven feet radius, constructed by David Rittenhouse, of Pennsylvania, and himself. Mr. Ellicott continued his observations, and remained with us about six weeks, while our camp was at St. Regis.

The survey was trigonometrical, and the distances between ascertained points were care-

fully delineated by the draftsman. Measurements, observations and notes were taken during the summer, and the calculations and maps were prepared in the winter. Soundings were made in all places where a doubt might exist as the navigable channel or the relative quantities of water in the several channels.

A complete and perfect survey was thus made of the River St. Lawrence, into and to include all the islands in the north end of Lake Ontario; of the Niagara River to Lake Erie; of the western end of Lake Erie, from a line extending from Sandusky Point to Point Pelee; and thence continuous through Detroit River, Lake and River St. Clair to Lake Huron; and of the northern end of Lake Huron from the big Manitou Island to the Neebish rapids, at the outlet of the River St. Marys, which was determined to be the end of the 6th article. The principal points on Lake Huron were determined by Astronomical Observations.

In continuing the survey under the 7th article from Lake Huron, a perfect survey was made of the St. Marys River to Lake Superior. As there are no islands from the St. Marys to Isle Royale in Lake Superior, no survey was made of that part of the lake by this party. The maps of Capt. Byfield of the British Navy were adopted, and a survey was then continued from the northeast point of Lake Royale to the Lake of the Woods. I do not know that I can do better than to make extracts from a letter from Mr. Ferguson, (who succeeded the writer in charge of the survey) to me:

FORT WILLIAM, Jan. 20, 1823.

Dear Sir:—I have not written to you since we left Michilimackinac. In any other part of the world, it would be a sufficient excuse to say that I had received no letter from you. The truth is, we have been very busy or very idle, and they told us after the canoes left us in August, we should have no other opportunity of writing.

I expected our survey would have been one continued measurement, but in this I was mistaken. The rivers are all either broken into cascades and rapids, or where they are not, the banks are steep and covered with woods. To measure any where but on the water would have taken a century. So I measured the distance by log and took the courses with a boat compass, and have protracted them by minutes and seconds of time. The instructions of the Commissioners say we must perambulate the waters each way, and this I suppose is a kind of perambulation. In the large lakes I began by measuring a base, and intersecting points, making a kind of trigonometrical survey of it, and thus we continued throughout, except that points were determined without the formality of setting up stations at them and a series of lines measured by log. The protraction agrees very well and comprehends about eighty miles, a chain of little lakes running in about the same direction westward. To make things more sure, I intend measuring along these lakes in the course of the winter on the ice, determining some of the principal points astronomically.

[Here Mr. F. explains in detail the workings of his chronometer, and his difficulties with his instruments in crossing the portages.] He continues—I determined the position of Isle Royale by fires. The base will be four miles long, and is to be measured on the ice. I also made a survey of the island by log. I spent twenty days upon it, and though there were several good observations for longitude within that time, the nights on which they happened were not clear.

The Canadians furnished by Mr. Morrison knew nothing of canoes but to paddle in them, and had

we not got a man from Mr. Stuart, at Mackinaw, our canoes would never have got across the Grand Portage.

The small lakes froze up about the middle of October, and do not open till about the first of May.

There are three gentlemen resident at the Fort; one a relative of the President. But it is tremendously dull. If you are in a city you see new faces every day; but when there are only half a dozen together, you soon exhaust every common and uncommon source of amusement, and after that stalk about each other as solitary as if you were perfectly alone. There are two fiddles and a triangle here, and every fortnight since the first of November has been distinguished by a ball. The women and children amount to about thirty, and, with our establishment, there are near as many men. They dance Scotch reels, and are as merry as may be. The Northwest Company encourage these dances to keep their men in spirits, and prevent them growing morose and savage; and before the union of the Northwest and Hudson Bay Companies, there was a noted difference between the dependents of each. As the Hudson Bay people had chiefly small forts and but few dances, they became spiritless, and had no relief from the monotony of their existence. The case was different with the others: they were lively, and endured hardships much more willingly. At the Fort at Ashabaska they had a fiddler who could play only two tunes, and the gentlemen of the Fort paid him 200 livres a year for his music. I don't dance, and therefore have no part in the diversion. I however stood Godfather to a ball a few weeks ago. You have heard that Capt. Bainbridge, when off Constantinople, had on his table at a public dinner a pitcher of water from each continent of the globe. The drinkables at my entertainment were not so numerous, but more characteristic, and I think as appropriate—the whiskey being a native growth, and the rum smuggled across the Niagara—a capital commentary to the last part of Col. Oglivie's toast, that the boundary line was in peace, 'a trace upon the waters.'

"Our men from Black Rock are dandies here, and do us honor. I left my clothes, except necessaries, at Mackinaw, and the inventory of my shirts would be nearly as short as Prince Henry's account of the wardrobe of Poins, "as one shirt for superfluity and one for use."

The survey was continued through the chain of small rivers to and through the Lake of the Woods, and was completed in the year 1825.

Although the Commissioners had frequent consultations in relation to the principles which should govern them in locating the line along the rivers where there were islands, they did not agree to any which should not be varied as circumstances might require, except that no island should be divided. The middle distance from main shore to main shore was claimed as the true line on the one part—the greatest quantity of water, the "Filum Aquæ," and the navigable channel, on the other part.

After the surveys and maps were completed, the surveyors were directed to trace a middle line, and to estimate the quantity cut or crossed by that "traced line." With the maps and the data furnished of quantities in the doubtful islands, and of the soundings, the Commissioners proceeded to mark down the line. When there were many islands and many channels the process was slow and difficult; conflicting interests and opinions had to be adjusted, and concessions made by each. In this manner they proceeded, keeping a sort of debtor and credit account of quantities in these doubtful islands. They thus agreed upon the boundary for the whole distance included in the 6th article of the treaty, and

reported to their Governments, which line, by the provisions of the treaty, was final and conclusive.

Of this line, Bouchette, in his "Topographical and Statistical Description of Canada," speaks in the following complimentary manner:

"The immense multitude of islands dispersed not only in the St. Lawrence, but at the discharge of rivers that connect the great lakes, must have rendered the adjustment of this section of the boundary excessively intricate and embarrassing, especially as many of the islands were no doubt important as points of military defense or commercial protection on the frontier, that either party would naturally be anxious to retain.

"The relinquishment of Barnhart's Island by the British Commissioners was considered an important sacrifice; but the exclusive possession of Grand (or Long) Island, which was left to Great Britain, was esteemed an adequate equivalent for its surrender."

The whole line, as established by the Commissioners, seems to have given general satisfaction. Indeed, the only complaint which has come to the knowledge of the writer was in relation to Barnhart's Island, and about that it is believed that the British Governments, at home and in Canada, have been entirely satisfied.

The plan of dividing the doubtful islands operated favorably in our immediate vicinity. As Long or Grand Island in the St. Lawrence, containing about thirty thousand acres, was given to the British side, the Commissioners came into the Niagara river with much the larger quantity of doubtful island territory on that side. There was, therefore, no hesitancy in appropriating Grand Island, in the Niagara river, to the United States. That island (other things being equal) would have been questionable, as the largest surface of water is probably on the American side, although the quantity of water is about three-fifths on the British side. The measurement of the velocity and depth showed that there passed on the Canada side 12,802,750 cubic feet of water per minute; on the American side, 8,540,080 feet. Whole quantity, 21,342,830 feet.

To test the accuracy of these measurements, the quantity passing Black Rock was calculated on a subsequent day, which resulted in finding 21,549,590 cubic feet to pass per minute. The result was satisfactory, as a slight difference in the course and velocity of the wind would cause a much larger difference.

The Commissioners were not so successful in settling the boundary under the 7th article.—The first difficulty which presented itself was in relation to Isle St. George, or Sugar Island, in the St. Mary's river, the British Commissioners claiming that the line should run on the western or American side of that island.—On the American side is a broad surface of water, shallow and not navigable for vessels, and only about half the distance as by the eastern channel, which is deep, and the only one in which lake vessels can ascend to the falls

above. To this claim the American Commissioner could not agree. From a point about one mile above that island the line was agreed upon and settled to Lake Superior, and through that lake, in a straight line, passing a little to the south of Isle Caribœuf to a point in that lake one hundred yards to the north, and east of a small island named on the map, Chapeau, and lying opposite and near to the north-eastern point of Isle Royale; from that point to another point on Lac la Pluie near the foot of Chaudiere Falls, they disagreed, the British Commissioner claiming that the boundary between those points should pass through the lake to Fondulac and thence up the River St. Louis, following a chain of small streams and lakes and innumerable portages to Lac la Pluie, a point from which both Commissioners were agreed on the line to its terminus at the north-west angle of the Lake of the Woods.—The American Commissioner, as a counter project, claimed that the line from Isle Royale should run directly to the mouth of the river Hamanistiguie, and thence to the point in Lac la Pluie, but proposed that the route by Pigeon river should be adopted. As each Commissioner was tenacious on those points of disagreement, those points of the boundary remained unsettled until the Treaty at Washington in 1842.

The points of disagreement by the Commissioners, under the 5th and 7th articles of the Treaty at Ghent, were finally adjusted by the Webster-Ashburton treat at Washington in 1842, and at the risk of overtaxing your patience, I will transcribe from that treaty some parts of its decisions.

The uncertain knowledge of the country at the time of the making of the Treaty of 1783, led to a vague and uncertain north-eastern boundary—a fruitful source of disputes and ill-feeling in relation to it.

The words of that treaty are, "From the north-west angle of Nova Scotia, via that angle which is formed by a line drawn due north from the source of the river St. Croix to the Highlands; along the said Highlands which divide those rivers which empty themselves into the St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut river." The letter of this description would carry the line to near the 48th degree of latitude, and many miles north of Quebec. The nature of the country renders it almost impossible to draw such a boundary as could be known and understood. It would have been very inconvenient and disagreeable to the British Government.—The Treaty recites that it is intended for "reciprocal advantages, and mutual conveniences." Its spirit, therefore, seems to justify the compromise made by the Treaty of 1842, whereby the United States yielded a large tract of disputed territory along the Highlands, but obtained a full equivalent in the strip of territory along the north of the 45th parallel of latitude, including Rouse's Point.

The first article of the Treaty of 1842 declares that the line "shall begin at the monu-

ment at the source of the St. Croix as designated and agreed by the Commissioners under the 5th article of the Treaty of 1794; following the exploring line due north, run and marked by the surveyors in 1817 and 1818, under the 5th article of the Treaty at Ghent, to its intersection with the river St. John, and to the middle of the channel thereof, thence up the middle of that river to the river St. Francis; thence up the middle of that river and of the lakes through which it flows to the outlet of Lake Pohonagamook; thence southwest in a straight line to a point on the northwest branch of the River St. Johns, which point shall be ten miles distant from the main branch of the St. Johns in a straight line and nearest direction. If the said point is less than seven miles from the nearest crest or summit of the Highlands which divide the waters which fall into the river St. Lawrence from those which fall into the Atlantic, then the point to recede down to a point 7 miles; thence in a course about south, 8 degs. west to a point where the parallel of 46 degs. 25 mins. intersects the northwest branch of the St. John; thence southerly by the said branch to the source thereof in the Highlands at the Metjamette portage; thence down along the Highlands, which divide the waters, to the head of Hall's stream; thence down the middle of said stream till it intersects the Old Line surveyed and marked by Valentine and Collins, previous to the year 1774, as the 45th degree of latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on the one side, and the British province of Canada on the other; and from said point of intersection west along said dividing line heretofore known and understood to be the line to the river Iroquois or St. Lawrence."

By the second article of that treaty, it was agreed and declared that the line (under the 7th article of the Treaty of Ghent, not settled by the Commissioners) should run through the middle of Lake George and eastward of St. George's or Sugar Island, so as to appropriate that island to the United States.

And that the line westward from the N.E. point of Isle Royale should run through the middle of the sound between Isle Royale and the northwest main land to the mouth of Pigeon river, up that river to and through North and South Foul Lakes to the height of land between Lake Superior and Lake of the Woods; thence through the rivers, lakes and water communications to Lake la Pluie at the foot of Chaudiere Falls; thence along the same line agreed on and settled by the Commissioners to the northwest angle of the Lake of the Woods, situated in the 49 deg., 23 min., 55 sec., of latitude, and in 95 deg., 14 min., 38 sec., west longitude from Greenwich, being in both cases the line proposed by the American Commissioner, and without doubt the one "intended by the Treaty of 1783."

The Treaty of 1842 further declares that the boundary westward from the northwest angle of the Lake of the Woods shall, according to

existing treaties, run due south to its intersection with the 49th parallel of latitude, and on that parallel to the Rocky Mountains.

Having occupied so much of your time in what I fear has been a tedious detail in relation to treaties and their manner of execution, a few reminiscences of our camp life, and of the persons at different times attached to the boundary party, may not be without interest, although so long a time has elapsed many things which had interest have escaped me. In 1816 Col. Totten located a site for a fort at Rouse's Point, on Lake Champlain, south of the line known and marked as the boundary many years before, but actually *north* of the true parallel of 45 deg., and considerable labor and money was expended in preparing a foundation before it was discovered where the 45th deg. was. The writer of this, in company with Mr. Adams, the principal surveyor of our party, met Colonel Totten at Plattsburgh, in the spring of 1817. The Colonel was much mortified at the mistake, and explained that he had relied on the observations of his assistants, which had confirmed the old line. It is believed, however, that he was somewhat influenced by the representations of Col. Hawkins and Major Robertdeau, who were making reconnoissances along the northern and western boundaries and spread the report that the line would be several miles further north. That work was suspended and not resumed again till after 1842.

Col. Samuel Hawkins was a lawyer, and had been District Attorney for the District composed of Dutchess and others, when several counties made a District. He obtained his appointment as agent under the 6th and 7th articles of the Treaty of Ghent, in the summer of 1816, and in company with Major Robertdeau, of the Topographical Engineers, proceeded on a tour along the lines. These gentlemen were "bon vivants" and "bou companions," and made quite a stir along the frontiers in fixing the boundary. Their journey was one rather of pleasure than profit to their government; for all they did amounted to nothing except to alarm the settlers along the line. Col. Hawkins assumed (whether sanctioned by Major Robertdeau or not is not known) that the true parallel of latitude should be calculated on the fact that the earth is a spheroid instead of (what is usual) on the assumption that the earth is a sphere. In this manner he was about to take in quite a slice of Canada. The following, from Niles' *Register* of September, 1816, is a specimen of articles which appeared in the papers: "Col. Hawkins and Major Robertdeau have arrived at Sackett's Harbor. They say that the line west of Connecticut river is at present too far South, and that in establishing the 45th parallel of latitude will give the United States sixteen townships of Lower Canada, and three excellent forts, and Isle-au-Noix."

On the organization of the parties under the 6th article of the Treaty in May, 1817, the American party was composed of P. B. Porter, the Commissioner; Donald Frazer, Secretary;

David P. Adams, of the Navy, the Astronomical Surveyor; William A. Bird, Assistant Surveyor; Thomas Clinton, Steward, with cook, waiter, boatmen and axemen, numbering about 20 persons. Professor Andrew Ellicott soon joined the party and remained about six weeks. The camp was arranged in military order. Each of the above named had a tent which, with others for the men, stores, &c., made quite a show on the bank of the river. We were well provided with instruments; each Surveyor had a boat and boat's crew; besides these were others for the Commissioners' and camp use. The Surveyors, when near the main camp, returned to that at night, but for portions of the time they took tents, provisions and camp utensils in their boats, and would be absent several days together, encamping where night overtook them.

The gentlemen of the British party were Col. John Ogilvie, Commissioner, Dr. John Bixby, Assistant Secretary, David Thompson, Astronomical Surveyor; Alexander Stevenson, Assistant do., with a full compliment of other attendants.

Col. Ogilvie was a prominent member of the N. W. Fur Co., a Scotchman by birth, a man of indomitable energy and perseverance. He had his own bark canoe and crew, and was to be seen almost daily on the water, overlooking the Surveyors and their progress.

David Thompson had been many years in the employ of the Hudson Bay Company and had wintered at Hudson Bay. This Mr. Thompson is the same, who it will be remembered in the 54° 40' controversy, went down Frazer river on his way to take possession of Columbia river for the British Government, but found that Mr. Astor's settlement had already preceded him. As was the custom he had taken to wife a native in this upper country and brought her down to his home on the St. Lawrence, and with her a lot of fine, intelligent children.

Col. John Hale, from Quebec, the Agent of the British Government, a Lawyer and a fine old English gentleman, was occasionally with the party and in the camp of the Commissioners.

During a part of the years 1817-18, Colonel Hawkins was on the river and had his separate establishment always near that of the Commissioners' camp. In the spring of 1818, Richard Delafield (now Colonel of U. S. Engineers,) joined the American party as the Draftsman, and for a part of the season William Darby (the Historian) was Assistant Surveyor.

In June, 1818, Professor Hassler for the United States, and Dr. Tiark for the British Government, went out to St. Regis as Astronomers under the 5th article of the Treaty, to authenticate the point fixed by Mr. Ellicott as the 45th parallel. Our Mr. Adams went down the river to meet them there and took with him the Astronomical Circle, which Mr. Hassler had purchased in London for the Government for Mr. Hassler's use. While there, a gale of wind broke down his shanty and utterly ruined that valuable instrument, thus depriving us of its

use, but relieving us of its care and protection.

In the Spring of 1819, Mr. Adams was recalled to the Navy, and the writer took charge of the Surveys except for a few months that season while Major D. B. Douglass was with the party. James Ferguson joined the party as Assistant Surveyor, and Louis G. De Russey as Draftsman.

Col. Hawkins was succeeded by Major Joseph Delafield as Agent and made his home in the Commissioners' camp, and remained in the Commission till its termination in 1825.—The party was this year in the west end of Lake Erie from July to October, when it became so reduced and weakened by sickness that they were compelled to decamp. This season was remarkable for the little wind on the lake, the unusual warmth and low water and the sickness. Every member of both parties was sick, some very sick. Col. Ogilvie died about the 1st October, at Amherstburg; one of his men the same day, and all others sick.

Hank Johnson accompanied the party this season for the purpose of procuring fish and game, in which he was almost always successful.

In July, 1820, the party embarked on board the schooner "Red Jacket" in the Detroit River and proceeded to Lake Huron, when they prosecuted their Surveys till into October.—The schooner was retained in the service of the party and was the headquarters instead of the camp. The Surveyors were most of the time absent from the vessel with their own boat and camp equipage.

In the Spring of 1822, the writer (the boundary under the 6th article having been completed) resigned his position and was succeeded by Mr. Ferguson, who continued with the Survey to the Lake of the Woods, and remained with the party till the final close of the Commission in 1825. Mr. Ferguson has since been employed several years on the Coast Survey, and for the last 10 or 12 years in the National Observatory at Washington.

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